

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 06-0131

**Sales Tax
For Tax Year 2004**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales Tax—Rental Exemption

Authority: IC § 6-2.5-5-8; IC § 6-8.1-5-1

Taxpayer protests the denial of its eligibility for the rental and leasing exemption.

STATEMENT OF FACTS

Taxpayer purchased an aircraft and did not pay sales tax, claiming an exemption for rental and leasing. In the course of an investigation, the Indiana Department of Revenue ("Department") determined that taxpayer did not qualify for the exemption and issued a proposed assessment for the unpaid tax. Taxpayer protests that it is eligible for the exemption. Further facts will follow as required.

I. Sales Tax—Rental Exemption

DISCUSSION

Taxpayer protests the Department's decision that taxpayer is not eligible for the rental and leasing exemption for sales tax. Taxpayer states that it is in the business of renting and leasing the aircraft, and that it therefore qualifies for the exemption. As explained by IC § 6-8.1-5-1(b), the burden of proving a proposed assessment wrong rests with the person against whom the assessment is made.

The exemption is found at IC § 6-2.5-5-8(b), which states:

Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

As part of this protest, taxpayer has provided sufficient documentation to establish that it was renting the aircraft in the ordinary course of its business. This satisfies the conditions of IC § 6-2.5-5-8(b). Taxpayer has met the burden placed on it by IC § 6-8.1-5-1(b), and proven that it is eligible for the rental and leasing exemption. Additionally, the documentation provided as part of this protest establishes that taxpayer should be filing sales tax returns on a quarterly basis.

FINDING

Taxpayer's protest is sustained.

WL/BK/DK February 12, 2007